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CROWDPAC

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July 19, 2016

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Mr. Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Jordan:

I write in response to **MUR 7082**, a complaint by Mrs. Wendy Reed concerning Crowdpac, Inc, made to the Federal Election Commission (the "Commission").

Mrs. Reed's complaint accuses Crowdpac of (1) using her image to solicit donations to her campaign without her authorization, (2) referencing San Diego in this solicitation, and (3) failing to include disclosure of who is making the solicitation. None of these complaints have any merit and we respectfully request that no action be taken on any of them.

Before addressing the specifics of Mrs. Reed's complaint, we wish to make it clear that while we use the term "solicitation" because it is the term used in Mrs. Reed's complaint, Crowdpac does not solicit for any particular candidates. Crowdpac provide its users with various tools to help identify like-minded candidates. Crowdpac allows users to identify their priority issues and view candidates' positions on those issues. Users are able to search for candidates through criteria such as location, demographics, positions on issues, office sought, and incumbency status. We then further provide users the ability to make a donation—using our partner Democracy Engine—to candidates they wish to support.

Complaint #1: Use of Mrs. Reed's image as part of a "solicitation" on behalf of her campaign without her permission.

Crowdpac has explicit permission from the Federal Election Commission (the "Commission") to engage in the behavior about which Mrs. Reed complains.

In 2014, Crowdpac requested and received Advisory Opinion 2014-07 (the "Opinion") from the Commission. Mrs. Reed admits in her complaint that she has read media coverage of the Opinion.

The Background section of the Opinion includes the following facts:

Crowdpac's website will also feature a dedicated page for each federal candidate who has registered an authorized committee with the Commission. These pages will include information about each candidate, including office sought, biographical details, and a photo, as well as information about the candidate's political positions, including

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information derived from Crowdpac's algorithm. In the statement of facts, the Commission. (2014-07 at 2, underline added)

and

Each candidate page will contain a link (which appears as a "DONATE" button) allowing users to make contributions to the candidate. Crowdpac itself will not process contributions, deposit contributions into a merchant account in its name, or forward contributions to candidate committees. Instead, Crowdpac will contract with Democracy Engine— whose online contribution processing platform the Commission approved in Advisory Opinion 2011-06 (Democracy Engine *et al.*)— to process contributions. (2014-07 at 3, underline added)

The first question answered in the legal analysis section explicitly granted permission to engage in the behaviors outlined in the Background:

Yes, Crowdpac may provide its services of matching users with candidates and utilizing the Democracy Engine platform to process and forward users' contributions to candidates without making impermissible contributions to federal candidate committees. (2014-07 at 5)

As Crowdpac received explicit permission in the Opinion to engage in the behavior of which she complains, we feel no action should be taken against Crowdpac on this aspect of Mrs. Reed's complaint.

Complaint #2: The page referenced San Diego and she is not a candidate in San Diego County.

The banner on the page to which Mrs. Reed referred was an internal advertisement for a Crowdpac ballot guide tool for June 2016, elections in San Diego. We served that banner on all candidates from California listed on the site through the election. The text did not imply that she was a candidate in San Diego. The district in which she is a candidate was clearly stated on the page.

This internal advertisement is no longer running and even when it was, no reasonable visitor to the page would reach the conclusion that we were asserting that she is a candidate in San Diego. Banner ads of this sort are quite common on the Web.

For these reasons, we feel no action should be taken against Crowdpac on this aspect of Mrs. Reed's complaint.

Complaint #3: Failure to include disclosures as to the source of the "solicitation."

The disclaimer requirements of 11 C.F.R. §110.11, which include disclosure of the source of a solicitation, do not apply to the communication about which Mrs. Reed complains.

11 C.F.R. §110.11 reads:

(a) Scope. The following communications must include disclaimers, as specified in this section:

(1) All public communications, as defined in 11 CFR 100.26, made by a political committee; electronic mail of more than 500 substantially similar communications

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when sent by a political committee; and all Internet websites of political committees available to the general public.

(2) All public communications, as defined in 11 CFR 100.26, by any person that expressly advocate the election or defeat of a clearly identified candidate.

(3) All public communications, as defined in 11 CFR 100.26, by any person that solicit any contribution.

(4) All electioneering communications by any person.

As Crowdpac is not a political committee, §110.11(a)(1) does not apply. As this communication does not advocate for the election or defeat of a candidate, §110.11(a)(2) does not apply. As the communication in question is on Crowdpac's own website, it does not meet the definition of public communication provided by 11 CFR §100.26; therefore, §110.11(a)(3) does not apply.

As communication on the web does not meet the definition of electioneering communications provided by 11 C.F.R. §100.29(a), §110.11(a)(4) does not apply.

For these reasons, we feel no action should be taken against Crowdpac on this aspect of Mrs. Reed's complaint.

Mrs. Reed also makes one request of the Commission in her letter that is not linked to a complaint already address above. While this request does not allege a violation of the Federal Election Campaign Act or the Commission's Regulations, we have decided to respond briefly to it anyway.

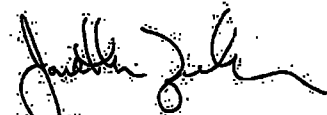
Request: The Commission investigate "whether or not contributions are even being distributed to candidates."

The implicit allegation—that Crowdpac or Democracy Engine are engaging in a fraud—has no merit. All contributions Democracy Engine has processed on behalf of Crowdpac users have been distributed to the recipient designated by the donor. Mrs. Reed received no contributions from Crowdpac users (and had, therefore, received no distributions from Democracy Engine) prior to her request that we disable contributions to her, a request we chose to honor.

For these reasons, we feel no action should be taken against Crowdpac or Democracy Engine on this request of Mrs. Reed's.

Thank you very much.

Sincerely yours,



Jonathan Zucker, Esq.